

Message Text

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ACTION ORM-02

INFO OCT-01 IO-13 ISO-00 DHA-02 AF-08 ARA-06 EA-07 EUR-12

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PM-04 H-01 INR-07 L-03 NSAE-00 NSC-05 PA-01 PRS-01

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C O N F I D E N T I A L GENEVA 0274

E.O. 11652: GDS

TAGS: SREF, UNHCR

SUBJECT: TERRITORIAL ASYLUM CONFERENCE: AUSTRALIAN INITIATIVE

1. AUSTRALIAN DELEGATION PERCEIVES IN THE PRESENT DRAFT TEXT FOR A CONVENTION ON TERRITORIAL ASYLUM AN OVERSIGHT OF THE EXPLICIT RIGHT, NOW ONLY IMPLIED, FOR A PERSON TO SEEK ASYLUM. TO REMEDY THIS IT HAS REQUESTED AUTHORITY TO PROPOSE INSERTION OF THE FOLLOWING ADDITIONAL LANGUAGE: QUOTE NO PERSON ELIGIBLE FOR THE BENEFITS OF THIS CONVENTION SHOULD BE PROSECUTED OR PUNISHED BY A CONTRACTING STATE FOR SEEKING OR RECEIVING ASYLUM IN THE TERRITORY OF ANOTHER STATE UNQUOTE.

2. THIS WOULD PLACE THE CENTRAL ISSUE FORESQUARE BEFORE A NUMBER OF GOVERNMENTS REPRESENTED HERE, OF COURSE, BUT WE SEE IN THIS A WAY, TOO, OF TURNING THIS CONFERENCE AROUND. INITIAL AUSTRALIAN SOUNDINGS SHOW AFRICAN AND LATIN AMERICAN SUPPORT FOR THEIR PROPOSITION, AND THIS, COUPLED WITH THE NEGATIVE REACTIONS EVOKED BY THE SOVIET ANNOUNCEMENT OF ITS AVERSION TO ANY NEW INSTRUMENT, COULD SERVE TO SHIFT THE LOCUS OF CONTROL OF THE CONFERENCE INTO THE HANDS OF THOSE DISPOSED TO WRITE SOME CLEAR NEW LAW ON THIS HUMAN RIGHTS QUESTION, LETTING THE DROPOUTS DROP. AS THINGS NOW STAND, THE EASTERN GROUP CAN CONCLUDE THAT BY WORKING

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BOTH BEHIND THE SCENES AND BEFORE THEM IT HAS PRODUCED SUFFICIENT CONFUSION TO SWAMP THE OBJECTIVE OF THE CONFERENCE. A CRYSTALLIZING ISSUE COULD TRANSFORM THIS.

3. MOREOVER, THERE IS SOME INDICATION THAT THE THIRD WORLD, HAVING ASSUMED ALL PRINCIPAL OFFICES OF THE CONFERENCE (AND WITH THIS THE PRINCIPAL RESPONSIBILITY FOR ITS SUCCESS), AND BEING

ARRESTED FURTHER BY EASTERN NEGATIVISM, ARE ANXIOUS NOW TO FIND COMMON GROUND WITH THE WESTERN GROUP. THIS SPIRIT WAS EVIDENCED IN THE DECISION OF THE AFRICAN GROUP TO DESIST FROM CONTESTING THE APPORTIONMENT OF SEATS TO THE WESTERN GROUP ON THE DRAFTING COMMITTEE. THE UNFAVORABLE REACTION OF ASIAN GROUP MEMBERS TO THE SOVIET NEGATIVISM HAS BEEN REMARKED UPON TO US.

4. SEPTEL ALERTED THE DEPARTMENT TO ISRAELI IDEA FOR BRINGING THE NEW INSTRUMENT INTO HARMONY WITH SUCH EXISTING CONVENTIONS AS HAGUE AND MONTREAL. THE APPROACH TENTATIVELY PROPOSED NOW BY THE AUSTRALIAN DELEGATION WOULD HAVE THE COLLATERAL ADVANTAGE OF ADDRESSING AT THE SOURCE THE RISK OF RESORT TO CRIMINALITY TO ACHIEVE POLITICAL ASYLUM BY OPENING THE DOOR TO ALTERNATIVE RELIEF, HOWEVER SLIGHT INITIALLY, THROUGH THE ESTABLISHMENT OF A NEW NORM WHICH OVER TIME COULD FIND EXTERNAL ACCEPTANCE AND SERVE TO HIGHLIGHT ACTIONS OF THOSE GOVERNMENTS WHO MAY PERSIST IN REFUSING TO RECOGNIZE IT. INTRODUCTION OF THE AUSTRALIAN LANGUAGE WOULD HAVE THE EFFECT OF BRINGING THE TERRITORIAL ASYLUM CONVENTION INTO CLOSER ALIGNMENT WITH THE PROVISION IN ARTICLE 14 (1) OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS: QUOTE EVERYONE HAS THE RIGHT TO SEEK AND TO ENJOY IN OTHER COUNTRIES ASYLUM FROM PERSECUTION UNQUOTE.

5. DELEGATION BELIEVES IT SHOULD BE AUTHORIZED TO SUPPORT, BUT NOT PROMINENTLY, THE INTRODUCTION OF THIS NEW DIMENSION TO THE CONVENTION.

6. DEPARTMENT'S REACTION AND GUIDANCE REQUESTED. CATTO

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